

AMERICAN ARBITRATION ASSOCIATION

CASE NO.: 01-15-0006-0298

In the Matter of Arbitration Between

CITY OF PHILADELPHIA

Employer

and

**FRATERNAL ORDER OF POLICE,
LODGE NO. 5**

Union

**OPINION
AND
AWARD**

ARBITRATOR:

Robert E. Light, mutually chosen
by the parties pursuant to the rules and regulations
of the American Arbitration Association

HEARING:

May 17, 2017 in Philadelphia, PA.

APPEARANCES:

For the City
Frank Weir, Esq.

For the Union

Marc Gelman, Esq. (Jennings Sigmond, PC)
John McGrody, FOP
Officer Stacey Truitt, Grievant

ISSUE:

Was there just cause for the five-day suspension
imposed on Officer Truitt? If not, what shall be the
remedy?

BACKGROUND

A hearing in this matter was held on May 17, 2017, in Philadelphia, Pennsylvania, with both sides present and duly represented by counsel and with both parties having full and complete opportunity to offer evidence and argument in support of their respective contentions. In lieu of filing post-hearing briefs, both counsel made oral summations, after which time the hearing was declared closed.

The City of Philadelphia (hereinafter the "City" or the "Employer") and Philadelphia Lodge No. 5, Fraternal Order of Police (hereinafter the "FOP" or the "Union") are signatories to a current collective bargaining agreement. A grievance was filed by the FOP on behalf of Police Officer Stacey Truitt, which grievance protested the five-day disciplinary suspension imposed on Officer Truitt beginning on October 27 and ending October 31, 2015. The reason for the suspension is set forth in a Notice of Suspension which states that:

On Tuesday, March 17, 2017, you intentionally struck minor [REDACTED] [REDACTED] with a belt multiple times causing bruising to her back, stomach, arms and legs. [REDACTED] received medical attention at the Children's Hospital of Philadelphia...

(Joint Exhibit No. 2)

The Union protested the five-day disciplinary suspension; it proceeded through the steps of the grievance procedure and when there was no resolution it was submitted for final and binding resolution before this arbitrator.

FACTS

Stacey Truitt, the grievant herein, has been with the Philadelphia Police Department as a police officer for approximately 22 years. An incident occurred in or about March 17, 2017 wherein the grievant allegedly struck a minor with a belt. It appears that the grievant was [REDACTED]

[REDACTED]. The child had bruises on her and she reported it to her teacher, the child thereafter [REDACTED]. [REDACTED]

[REDACTED] The grievant was found guilty of conduct unbecoming by the City and thereafter received a disciplinary suspension of five days which was imposed by the City. This is the subject of the instant case namely the propriety or the lack thereof of the discipline imposed.

At the hearing, Officer Truitt testified respecting the allegations that were made by the City. She acknowledged the fact that she spanks her children and that, on the day in question, she accused the child of stealing money from her. The grievant freely admitted that she spanks all of her children and that, while she admitted to hitting the child on the day in question, she did not believe that the injuries could have come from the spanking which she gave her. The internal investigation conducted by the Internal Affairs Division concluded that "the allegations by D [REDACTED] V [REDACTED] behalf of [REDACTED] over abuse of a minor against Police Officer Stacey Truitt is sustained. (City Exhibit No. 8).

POSITION OF THE CITY

The City takes the position that it had just cause for the imposition of the five-day disciplinary suspension and it asks that the arbitrator sustain its position in that regard. It points out that [REDACTED]

[REDACTED] and that, as a police officer, this conduct is certainly unacceptable. While the City admits that the conduct occurred while the grievant was off duty, nevertheless, as a police officer, the conduct which the grievant exhibited on the day in question is certainly unacceptable conduct for any police officer so that it contends that the discipline imposed was proper. To the City's mind, what the grievant did on the day in question is certainly conduct unbecoming. It asks that the arbitrator so find and that the five-day disciplinary suspension was appropriate for the conduct exhibited.

POSITION OF THE FOP

The FOP, on the other hand, takes the position here that the grievant should not be penalized for this off-duty conduct and that there is no nexus between her job as a police officer and what occurred. It asks that the arbitrator so find and that the penalty shall be rescinded and that the grievant should be made whole.

DISCUSSION

The arbitrator has carefully weighed all of the evidence in the case including the testimony of the witnesses at the hearing, the arguments of respective counsel as made at the hearing, the contract, and the exhibits prior to reaching his decision. Initially, it should be noted that we are dealing here with a disciplinary suspension of five-days not what may be characterized as major discipline such as a lengthy suspension or termination. In any event, what is involved here is a serious matter in that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Subsequently the City saw fit to impose a disciplinary suspension upon the grievant based upon the finding of conduct unbecoming as found by the Police Board of Inquiry. While the District Attorney could have pressed charges against the grievant, for whatever reason, that was not done. In any event, while there is no specific rule or Department policy covering child abuse, quite clearly it is something that a police officer in the City of Philadelphia should not be guilty of committing. Indeed, pictures that were shown at the hearing indicated welts, bruises, etc. on the child who was struck by the police officer here. While the grievant admitted to striking the child with a belt, it was her testimony that the type of belt (one without a buckle) was utilized. Be that as it may, [REDACTED]

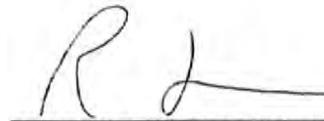
[REDACTED] At the PBI hearing, the grievant was likewise

found guilty of child abuse and the penalty imposed was one of a five-day suspension. This arbitrator concurs with that decision so that he will not disturb the recommendation of the PBI and indeed finds that the five-day disciplinary suspension imposed upon Officer Truitt was appropriate. The grievance is therefore denied.

Therefore, the undersigned having duly heard all of the proofs and allegations of the parties to this proceeding makes the following award:

AWARD

There was just cause for the five-day disciplinary suspension imposed upon Officer Stacey Truitt. Grievance denied.



ROBERT E. LIGHT, ARBITRATOR

AFFIRMATION

I, Robert E. Light, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Opinion and Award.

Dated: June 21, 2018



Robert E. Light, Arbitrator